

REMARKS

Claims 1–15, 20, and 23–27 are pending. Claims 1, 10, 12, 20, and 26 have been amended. Applicant respectfully requests reconsideration and allowance of this application.

Rejections under 35 USC 103(a) – He and Skene

Claims 1–16 and 20 and 23–27 stand rejected under 35 U.S.C. 103(a) as being anticipated by He et al. (U. S. Patent Number 6,671,259) (hereinafter “the He reference”) in view of Zisapel et al. (U. S. Patent Application Pub. No. US 2005/0022203 A1) (hereinafter “Zisapel”).

In general, the He reference is directed to a simple system and method for load balancing where a client is directed to a load balancing server based on one criteria of a predetermined set of criteria. Further, Zisapel is directed to a method for load balancing where a load balancer redirects a request from a client if the load balancer includes a record indicating that a different load balancer is appropriate for the client.

In contrast, the current invention includes, *inter alia*, load balance servers located within the same geographical proximity as the client and other servers, and therefore, the load balance servers may undertake accurate latency measurements on behalf of the client to determine the best server to service the client. That is, because the load balance server is located in a location that produces a similar latency to the client, the load balance server may make a latency measurement on behalf of the client and select a server best capable of servicing the client’s request.

For example, from the Summary of the Application (*see* Page 5, line 21 – Page 6, line

5):

While several companies have developed mechanisms to provide some form of global load balancing, none of these current systems measure actual network latency from physical locations close to the various clients. As a result, a particular client may be directed to a particular web server when, in fact, a different web server may have smaller latencies and give better performance from the client's physical location.

The system and infrastructure of the instant invention overcome this problem by performing global load balancing from physical locations in close proximity to the actual client.

Claims 1, 10, 12, 20 and 26 have been amended to clarify that the physical location of the load balance servers is a location that produces network latency similar to the client or another server. Neither the He reference nor the Zisapel reference, either alone or in combination, disclose the subject matter recited in Claims 1, 10, 12, 20, or 26 as currently amended. For at least the above-noted reason, the Applicant respectfully submits that Claims 1, 10, 12, 20, and 26 are patentable over both the He reference and Zisapel, either alone or in combination, and are allowable.

Furthermore, Claims 2–9 depend from claim 1, and therefore claims 2–9 are also allowable for as least the above noted reasons. Claim 11 depends from claim 10, and therefore Claim 11 is also allowable for as least the above-noted reasons. Claims 13–15 depend from claim 12, and claims 13–15 are also allowable for as least the above-noted reasons. Claims 24–25 depend from Claim 20, and claims 24–25 are also allowable for at least the above-noted reasons. Claim 27 depends from Claim 26 and is also allowable for at least the above noted reasons.

Conclusion

In view of the amendments and the remarks above, Applicant respectfully submits that this case is in condition for allowance and such allowance is earnestly solicited. In the event that there are any outstanding matters remaining in the above-identified application, the Office is invited to contact the undersigned to discuss this application.

Respectfully submitted,

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Date: June 12, 2006

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